

CHAPTER 180

H.B. No. 2799

AN ACT

relating to public retirement systems for employees of certain municipalities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. The following words and phrases have the meanings assigned by this section unless a different meaning is plainly required by the context:

(1) "Accumulated deposits" means the amount standing to the credit of a member derived from the deposits required to be made by the member to the retirement system improved annually by interest credited at a rate determined by the board which is credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year.

(2) "Actual retirement date" means the last day of the month during which a member retires.

(3) [(2)] "Actuarial equivalent" means any benefit of equal present value when computed on the basis of actuarial tables adopted by the board in the proper administration of the retirement system.

(4) [(3)] "Actuary" means the technical advisor of the board regarding the operations which are based on mortality, service, and compensation experience. [The actuary shall make periodic valuations of the assets and liabilities of the funds and other evaluations as requested by the board.]

(5) "Authorized leave of absence" means military leave of absence, including a period of not more than the 90th day after the date of release from active military duty, or any other leave of absence during which a member is otherwise authorized by law to continue making contributions to the system. The term does not include an approved medical leave of absence.

(6) [(4)] "Average final compensation" means the average monthly compensation, pay, or salary, exclusive of overtime, incentive, and terminal pay, that is \$16,666 or less and that is earned by a member during, as applicable:

(A) if the member has 120 months or more of membership service [during which the member contributed to the system], the 36 months of membership service which yielded the highest average during the last 120 months of membership service [during which the member contributed to the system];

(B) if the member has less than 120 months of membership service [during which the member contributed to the system], but has at least 36 months of membership service [during which the member made contributions to the system], then the average during the 36 months which yield the highest average; or

(C) if the member does not have 36 months of membership service [during which the member contributed to the system], then the average during the member's months of membership service [during which the member made contributions to the system].

(7) [(5)] "Beneficiary" means any person, trust, or estate properly designated by a member [or retired member] to receive benefits from the system. If there is no effective beneficiary designation on the date of the member's death or if the designated beneficiary predeceases the member, the member's beneficiary is the member's spouse or, if the member does not have a spouse, the member's estate.

(8) [(6)] "Creditable service" means the total of prior service and membership service [prior service plus membership service on the basis of which retirement allowances are computed for all employees classified as entitled to retirement benefits].

(9) [(7)] “Current service annuity” means a series of equal monthly payments payable for the member’s life after retirement for membership service from funds of the retirement system equal to one-twelfth of the product of 2.2 [2.1] percent of a member’s average final compensation multiplied by the number of months of membership service [~~rendered after January 1, 1941~~]. However, if payments commence before the member’s normal retirement date, the amount of the monthly payments to which the member would otherwise be entitled shall be reduced as provided by Section 7(e) of this Act [~~at the rate of five-twelfths of one percent for each month before the normal retirement date at which said payments commence~~].

(10) [(8)] “Deposits” means the amounts required to be paid by members [employees] in accordance with the provisions of this Act.

(11) [(9)] “Disability retirement” means the termination of employment [withdrawal] of a member because of disability [~~from active service~~] with a disability retirement allowance as provided in Section 8 of this Act.

(12) “Fund” means the trust fund containing the aggregate of the assets of Fund No. 1 and Fund No. 2 [(10) “Employee” means any regular and permanent employee of the cities governed hereby or the system’s administrative staff, except those employees specifically excluded from the benefits and operations of the retirement and pensioning system. All civil service commissioned police officers and fire fighters of the cities governed hereby are specifically excluded from membership in the retirement system. In any case of doubt regarding the eligibility of any employee to become or remain a member of the retirement system, the decision of the retirement board is final].

(13) [(11)] “Fund No. 1” means the fund in which shall be kept all accumulated deposits of members who have not withdrawn from the system.

(14) [(12)] “Fund No. 2” means the fund in which shall be kept all money contributed by the city on behalf of city employees, all money contributed by a hospital authority on behalf of hospital authority employees, and all money contributed by the board on behalf of board employees, interest earned thereon, and all accumulations and earnings of the system [~~except those of Fund No. 1~~].

(15) “Hospital authority” means a municipal hospital authority created after September 1, 1992, under Chapter 262, Health and Safety Code, and its subsequent amendments, by a city governed by this Act.

(16) [(13)] “Investment consultant” means the person or entity that monitors the investment performance of the system and provides such other services as requested by the board.

(17) [(14)] “Investment manager” means the person or entity that has the power to manage, acquire, or dispose of assets of Fund No. 1 or Fund No. 2 [~~manages the investment portfolio for the system, making specified investment decisions~~] on behalf of the retirement system and acknowledges fiduciary responsibility to the system in writing. The investment manager must be a person, firm, or corporation registered as an investment adviser under the Investment Advisers Act of 1940, a bank, or an insurance company and must otherwise meet the requirements of Section 802.204, Government Code, and its subsequent amendments.

(18) [(15)] “Life annuity” means a series of equal monthly payments, payable after retirement for a member’s life, consisting of a combination of [“—”prior service pension[?] and [“—”current service annuity to which the member is entitled[?] based on the employee service and average final compensation].

(19) [(16)] “Life annuity (modified cash refund)” means a life annuity providing that, in [series of equal monthly payments, payable after retirement for life, consisting of a combination of “prior service pension” and “current service annuity” based on the employee service and average final compensation. In] the event of death of the retired member before that member has received payments under the life annuity totalling [retirement allowances equal to] the amount of that member’s accumulated deposits at the date of retirement, the excess, if any, of such accumulated deposits over the payments made [retirement allowances paid] shall be paid [refunded] in one lump sum to the member’s designated beneficiary.

(20) [(17)] “Member” means any:

(A) regular full-time employee who has completed six continuous months of employment with the city, a hospital authority, or the board and who has been removed from the employee's initial probationary status; and

(B) former regular full-time employee who has not withdrawn the member's accumulated deposits from the system.

In any case of doubt regarding the eligibility of any employee to become or remain a member of the retirement system, the decision of the board is final ~~[employee included in the retirement system under this statute and approved for membership by the retirement board, including staff hired for the administration of the retirement system].~~

(21) ~~[(18)]~~ "Membership service" means the period of time on or after January 1, 1941, during which a person is or was employed as a regular full-time employee or is or was on an authorized leave of absence and who is eligible for participation in the system and ~~[member]~~ pays into and keeps on deposit the amounts of money prescribed to be paid by the member into the system. The term includes redeemed membership service.

(22) "Normal retirement age" means age 62.

(23) ~~[(19)]~~ "Normal retirement date" means the earlier of the date on ~~[first day of the month following the earliest month in]~~ which the member has completed 25 ~~[30]~~ years of creditable service ~~[at any age]~~ or has reached the age of 62.

(24) ~~[(20)]~~ "Prior service" means service as an employee of the city rendered prior to January 1, 1941, for which a pension credit is allowable under prior law governing the retirement system of that city and includes redeemed prior service ~~[or bought-back service].~~

(25) ~~[(21)]~~ "Prior service pension" means a series of equal monthly payments payable from funds of the retirement system for a member's life after retirement for ~~[creditable]~~ prior service equal to one-twelfth of the product of 2.2 ~~[2.1]~~ percent ~~[for each year of creditable prior service,]~~ of the member's average monthly earnings during a period of five years preceding January 1, 1941, multiplied by the number of months of prior service. On retirement at an age other than normal retirement age, the monthly prior service pension herein prescribed shall be the actuarial equivalent thereof at the member's actual retirement date ~~[age]~~, based on the schedule or schedules of payments approved by the actuary and adopted by the board and in effect on the member's actual retirement date.

(26) "Qualified domestic relations order" has the meaning assigned by Section 804.001, Government Code, and its subsequent amendments.

(27) "Redeemed membership service" means membership service reinstated in accordance with Section 5(e) of this Act.

(28) "Redeemed prior service" means prior service reinstated in accordance with Section 5(e) of this Act.

(29) "Regular full-time employee" means an individual who is employed by the city, a hospital authority, or the board, who is not a commissioned civil service police officer or fire fighter, the mayor, or a member of the city council, whose position is classified in the annual city, board, or hospital authority budget for employment for the full calendar year, whose position is classified in the annual city, board, or hospital authority budget to continue from year to year, and who works 30 hours or more in a normal 40-hour work week. The term does not include an individual whose position is classified as seasonal or temporary by the city, a hospital authority, or the board, even if the individual works 30 hours or more in a normal 40-hour work week in which the individual is employed.

~~(30) [(22)] "Regular interest" means the rate of interest assumed in the determination of the present value of pensions and annuities provided hereunder.~~

~~[(23)] "Retirement" means the termination of employment of a member after the member becomes entitled to receive [withdrawal of an employee from active service and receipt of] a retirement allowance in accordance with the provisions of this Act.~~

~~(31) [(24)] "Retirement allowance" means the life annuity (modified cash refund) to which a member may be entitled under this Act, including annuities payable on disability retirement or on early retirement [payments for life after retirement date to a member from a combination of both pension and annuity payments based on both prior and membership service. Retirement allowances shall be paid in equal monthly installments].~~

(32) [25] "Retirement board" or "board" means the board of trustees of the retirement and pensioning system herein created for the purpose of administering the retirement system.

(33) [26] ~~"Retirement date" means the first day of the month next succeeding the retirement of the member.~~

[27] "Retirement system," "retirement and pensioning system," "pension system," or "system" means the retirement and pensioning system created by this Act for a city governed by this Act.

(34) "Year of creditable service" means a 12-month period of creditable service determined in accordance with uniform and nondiscriminatory rules established by the board.

[28] ~~"Service" means service as an employee of the city paid for by the city or service as a member of the system's administrative staff paid for by the system.~~

[29] ~~"Vested interest" means the amount of benefit to which a member has a nonforfeitable right in accordance with the provisions of this Act.~~

[30] ~~"Withdrawal" means the separation of any employee from active service for any cause whatsoever prior to retirement date and the subsequent withdrawal from membership in the retirement system.~~

[31] ~~"Withdrawal allowance" means the accumulated deposits of an employee withdrawing from active service and from membership in the system. Withdrawal allowance payments shall be made in one lump sum unless otherwise specifically provided in this Act.]~~

SECTION 2. Section 3, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. ESTABLISHMENT AND APPLICABILITY. (a) *Except as provided by Subsection (b) of this section and subject to the authority granted the board in Section 7(d)(2)(D) of this Act, members [Members] who retired [retire] prior to September 1, 1993, [January 1, 1971, and who are receiving retirement allowances on that date] shall continue to receive the same retirement allowances they were receiving prior to that date, together with any cost of living adjustments authorized and paid in accordance with this Act.*

(b) Members who retired during the calendar years 1962 and 1963 shall *continue [be entitled to elect] to receive a benefit in accordance with their election, if any, and the retirement allowances computed in the manner prescribed by an applicable city ordinance in effect as of January 1, 1962, or in the manner in which said allowances would have been computed under applicable city ordinances [the provisions] existing immediately prior to the enactments of January 1, 1962, together with any cost of living adjustments authorized and paid in accordance with this Act.*

~~[(c) The provisions described in this Act shall be effective for payment to all members of the system retiring on or after January 1, 1973.]~~

SECTION 3. Section 4, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. ADMINISTRATION. (a) There is hereby created a retirement board of the retirement and pensioning system, in which board is hereby *vested [invested] the power and responsibility for the proper and effective general administration, management, and [responsibility for the proper and effective] operation of the retirement system.* The board shall be organized immediately after its members have qualified and taken the oath of office. ~~[All members of the board on January 15, 1991, shall become members of the board and continue to serve for the remainder of the terms of office in effect on January 15, 1991.]~~

(b) The retirement board shall be composed of 11 members as follows:

(1) *place one:* one city council member designated by the city council, *who may be removed and replaced or redesignated by the city council at any time;*

(2) *place two:* the city manager of the city or his or her designee;

(3) *place three:* the director of finance of the city or his or her designee;

(4) *places four through six:* *three voters of the city who have been city residents for the preceding five years and who are not city employees, former employees, or officers;*

(5) ~~places seven through 10: four active-contributory members elected by the active-contributory members [four active employee members elected by the members of the system. Each active employee member shall serve for a term of four years. Vacancies occurring by death, resignation, disability retirement or removal, or any other reason except retirement shall be filled for the remainder of the term by an active employee member appointed by the board. An active employee member who retires, except for disability retirement, will be eligible to complete the remainder of his or her term;~~

~~[(5) three legally qualified voters of the city, residents thereof for the preceding five years who are neither employees nor former employees nor officers of the city. Two of the three will be designated by the city council, and one will be designated by the board. The city and the board will each appoint one such member in every other odd-numbered year. The city will appoint one such member in every other even-numbered year. The term of office of members so selected shall be four years, and each member shall continue to serve until a successor is duly selected and qualified. Vacancies occurring by death, resignation, or removal of such citizen member shall be filled by the party that made the original designation]; and~~

~~(6) place 11: a retired member who will be elected by retired members. [The term of office of such member shall be four years. Such member shall continue to serve until a successor is duly elected and qualified. Vacancies occurring by death, resignation, or removal of such retired member shall be filled for the remainder of the term by a retired member appointed by the board.]~~

~~(c)(1) The place one board member serves at the pleasure of the city council and until the council redesignates the place one member, or until the member is no longer able to serve because of death, resignation, termination of position as a city council member, or disability. The city council shall appoint a person to fill a vacancy in place one not later than the 90th day after the first date of the vacancy.~~

~~(2) In December of every second even-numbered year, the city council shall appoint to place four one person meeting the qualifications for place four. In December of every second odd-numbered year, the city council shall appoint to place five one person meeting the qualifications for place five. In December of every second odd-numbered year, the board shall appoint to place six one person meeting the qualifications for place six. Board members holding places four through six each serve a four-year term beginning on January 1 of the year after their appointment, unless service is earlier terminated by the death, disability, resignation, or removal of that board member or the board member ceases to meet the qualifications of a citizen board member as set forth in Section 4(b) of this Act. The city council shall fill a vacancy in place four or five with a person meeting the qualifications for that place not later than the 90th day after the first date of the vacancy. If the city council fails to appoint an eligible person to fill a vacancy in place four or five within the 90-day period, the board may appoint a person meeting the qualifications for that place to fill the vacancy. The board shall appoint a person meeting the qualifications for place six to fill a vacancy in place six.~~

~~(3) The places seven through 10 board members each serve on the board for a four-year term, unless service is earlier terminated by the death, resignation, termination of employment, disability, retirement, or removal of that board member. The board shall appoint an active-contributory member to fill a vacancy in each of places seven through 10 for the remainder of the unexpired term.~~

~~(4) The place 11 board member serves for a four-year term, unless that service is earlier terminated by the death, disability, resignation, or removal of the member. The board shall appoint a retired member to fill a vacancy in place 11 for the remainder of the unexpired term.~~

~~(d) Members for places seven through 11 [The elected active employee members and the retiree member] shall be elected in accordance with the following provisions:~~

~~(1) Only active-contributory members [active employees of the city who are members of the retirement system] shall be eligible for election for places seven through 10 [as active employee members]. Only retired members [employees of the city who are retired members of the retirement system] shall be eligible for election for place 11 [as the retired member].~~

Not more than one *active-contributory* [~~active-employee~~] member shall be eligible for election from any one city department.

(2) *Members for places seven through 10* [~~The active-employee members of the board shall serve for terms of four years. They~~] shall be elected to four-year staggered terms with the terms of two of such *board* members beginning January 1 of each even-numbered year.

(3) *The board member for place 11 shall* [~~The retired member shall serve for a term of four years to~~] be elected in an even-numbered year, *with the term beginning on January 1 of the next odd-numbered year.*

(4)(A) No later than the first day of October of each odd-numbered year, the board shall appoint a nominating and election committee consisting of five *committee* members and two alternates, all of whom are *active-contributory* [~~active-employee~~] members of the retirement system. The nominating and election committee shall make *one or more* nominations for each *active-contributory* [~~employee~~] member *vacancy* [~~vacancies~~] and shall act as election judges. The nominating and election committee shall prepare the ballot containing the names of all *certified active-contributory member* [~~eligible~~] candidates, [~~ensuring a minimum of three times as many active-employee member candidates as vacancies exist~~].

(B) No later than the first day of October of every *second* [~~alternate~~] even-numbered year, the board shall appoint a nominating and election committee consisting of five *committee* [~~retired~~] members and five alternates, all of whom are retired members of the retirement system. The nominating and election committee shall make *one or more* nominations for the retired member *vacancy* and shall act as election judges. The *nominating* [~~nomination~~] and election committee shall prepare the ballot containing the names of all *certified retired member* [~~eligible~~] candidates, [~~ensuring at least three candidates for the retired member position. Only retired members of the retirement system are eligible to vote for the retired member~~].

(5) *Each* [~~The~~] nominating and election committee shall publish a notice at least two weeks prior to the *applicable* election date, informing all *active-contributory* [~~active-employee~~] members or retired members, *as applicable*, who have been certified as candidates.

(6) Elections for *places seven through 10* [~~employee members~~] shall be held on the first payday in December of each odd-numbered year. Elections for *place 11* [~~the retired member~~] shall be held in December of every *second* [~~other~~] even-numbered year. The candidates receiving the highest number of *eligible* votes shall be deemed elected. In case of a tie vote, selection shall be by lot *drawn by an existing member of the retirement board at a meeting of the retirement board held after the election but before the first day of January of the year after the election.*

(7) The *applicable* nominating and election committee shall canvass the returns, certify the results, and announce the official results of the election.

(8) The retirement board shall approve written procedures for the conduct of the election no later than August 1 of each year in which an election is held.

(e) [(d)] Each member of the retirement board within 30 days after appointment and election shall take an oath of office *that the board* [~~The~~] member will diligently and honestly administer the affairs of the retirement system and will not knowingly violate or willingly permit to be violated any law or statute applicable to the retirement system. All members of the board serve without compensation. *At any time, the* [~~The~~] board, by a vote of *six board* [~~remaining~~] members, may remove a board member for malfeasance.

(f) *In January of each year, the* [(e) ~~The~~] board shall elect from its membership a chairman and a vice-chairman to serve one calendar year.

(g) [(f)] The board shall *hire* [~~appoint~~] a pension officer *as an employee of the board.* The pension officer shall *hire and may fire or suspend* [~~appoint~~] necessary staff members, *and those staff members are employees* [~~with approval~~] of the board. The pension officer acting under the direction of the board shall keep all of the records of the retirement system and a record of the proceedings of the board. The pension officer and each staff member shall receive such compensation as the board may fix in each annual budget of the retirement system, or amendments to the budget, *and that compensation shall be paid from the fund* [~~thereto~~].

(h) ~~(g)~~ Subject to the limitations of this Act, the board shall from time to time establish rules and regulations for the administration of the ~~fund or~~ funds authorized to be created hereunder and for the transaction of the board's business. Each member of the board is entitled to one vote on the board. Six concurring votes are necessary for a decision by the *board* members at any meeting of the board, and six members constitute a quorum. Each member will be required to serve on a committee of the board. Any *board* member who is absent from four consecutive regular monthly meetings of the board shall be removed from the board and the member shall be replaced in accordance with the provisions of this section.

(i) ~~(h)~~(1) The board shall keep or cause to be kept in convenient form such data as are necessary for actuarial valuation of *the fund* ~~various funds~~ of the retirement system and for checking the *mortality, service, compensation, and payment* experience of the system.

(2) The board shall keep a record of all its proceedings, which shall be open to public inspection, and shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system as disclosed by the most recent actuarial valuation of the assets and liabilities of the retirement system.

(3) The board shall have charge of and administer the *fund as trustee of the fund* ~~retirement system~~ and shall order payments therefrom in pursuance of the provisions of this Act. *The city and each hospital authority shall provide to the board* ~~shall obtain from the city~~ all records necessary to administer the system *and the fund*. The board shall report annually to the members on the condition of *the fund* ~~said funds~~ and the receipts and disbursements on account of *the fund* ~~same~~. The board shall keep a complete list of the retired members, surviving spouses, and beneficiaries of *the fund* ~~said funds~~ and the amounts paid to them.

(4) Individual accounts shall be maintained *for* ~~with~~ each member of the retirement system, showing the amount of the member's *accumulated* deposits ~~and the accumulated interest allocated and standing to the credit of such member as provided under the system~~. Annually a statement shall be given each member showing the total *amount of that member's accumulated deposits* ~~accumulation of his or her credit~~. The accounts of the board and the retirement system shall be included in the annual independent audit of the accounts of the system. A copy of this annual audit shall be provided to the *city* mayor.

(5) The retirement board shall designate an actuary who shall be the technical advisor of the board regarding the *maintenance and operations* ~~operation~~ of the *fund* ~~funds~~ authorized by provisions of this Act and shall perform such other duties as may be required in connection therewith. *The actuary shall make periodic valuations of the assets and liabilities of the funds and other evaluations as requested by the board.*

(6) ~~As of the date of the establishment of the retirement system the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the system as the board shall authorize, and, on the basis of such investigation, the actuary shall recommend for adoption by the board such tables and rates as are hereinafter required. The board shall adopt tables and certify rates, and, as soon as practicable thereafter, the actuary shall make a valuation, based on the tables and rates, of the assets and liabilities of the fund or funds authorized by this Act to be created.~~

~~(7)~~ From time to time on the advice of the actuary and the direction of the board, the actuary shall make an actuarial investigation of the mortality, service, and compensation experience of members, retired members, surviving spouses, and beneficiaries of the retirement system and shall make a valuation of the assets and liabilities of the funds of the system. Taking into account the result of such investigation and valuation, the board shall adopt for the retirement system such mortality, service, and other *actuarial tables or rates* as are deemed necessary. On the basis of ~~such~~ *tables and rates adopted by the board* ~~adopts~~, the actuary shall make a valuation at least once every two years of the assets and liabilities of the funds of the retirement system.

(7) ~~(8)~~ The retirement board may *retain the services of one or more* ~~hire an~~ investment managers ~~manager~~ who shall have full authority to invest *and manage* the assets of the retirement system and ~~manage the portfolio of~~ the fund, as specified by ~~employment~~

contract in accordance with Subchapter C, Chapter 802, Government Code, and its subsequent amendments.

(8) [(9)] The retirement board may retain the services of one or more ~~hire an~~ investment consultants ~~consultant~~ to monitor the investment performance of the ~~fund's~~ investment managers ~~manager~~ and provide other investment-related services as requested by the board.

(j) [(4)] The retirement board may retain legal counsel to advise, assist, or represent the board in any legal matters affecting the retirement system and the operation of the fund.

(k) Except as provided by Subsection (l) of this section, the board may adopt rules, establish regulations or procedures, correct any defect, supply any information, or reconcile any inconsistency as the board considers necessary or advisable to carry out this Act.

(l) Any procedure, discretionary act, interpretation, or construction by the board must be done in a nondiscriminatory manner based on uniform principles consistently applied and must be consistent with this Act and with 26 U.S.C. Section 401(a) and its subsequent amendments.

SECTION 4. Section 5, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. MEMBERSHIP. (a) Any regular full-time employee who has completed six continuous months of employment as a regular full-time employee before or ~~person who becomes an employee of the city or of the system's administrative staff~~ after the date of establishment of the retirement system and who has been removed from the employee's initial probationary status, ~~[if eligible for membership,]~~ shall become an active-contributory ~~[a]~~ member as a condition of employment and shall make the required deposits commencing with the first pay period following the later of the completion ~~[a probationary period]~~ of six continuous months of employment as a regular full-time employee or the date of removal from the employee's initial probationary status. Unless on approved medical leave of absence or other authorized leave, the employee shall make the deposits as long as the employee remains a regular full-time employee and ~~[from date of employment or eligibility, whichever is later. The person]~~ shall remain a member of the system until the employee or the employee's beneficiary ceases to be entitled to any benefits from the retirement system ~~[entitled to benefits under Section 7 of this Act or until entitled to disability retirement pursuant to the provisions of Section 8 of this Act].~~

(b) ~~[Employees of the city or the system's administrative staff who may not become members of the retirement system include:~~

[(1) the mayor and members of the city council;

[(2) all civil service commissioned police officers and fire fighters;

[(3) all part-time employees who work less than 75 percent of a normal work week; and

[(4) all seasonal and temporary employees. A regular full-time employee of the city who is not included in this excepted classification is one whose position is classified in the annual city budget and who is employed throughout the full calendar year and whose employment continues from year to year. If a regular employee works at least 75 percent of a normal work week but less than full time, the employee shall make deposits as though working a normal full-time work week even though the rate of contribution may thereby exceed seven percent of actual, regular compensation, and the employee's average final compensation shall be computed on the basis of the compensation for a normal work week, but no deposits shall be made nor membership service credit received for periods during which an employee's authorized normal work week is less than 75 percent of a normal work week.

[(e)] Membership in the retirement system consists of the following groups:

(1) the active-contributory members group, which consists of all members, other than those on authorized leave of absence, who are making deposits; ~~[Active-Contributory. The employee whose current employment status allows payroll contribution into the retirement system. The employee must work at least 75 percent of a normal work week in a permanent position and must have completed the initial six months probationary period for membership.]~~

(2) the active-noncontributory members group, which consists of all employees on approved medical leave of absence and all employees of the city, a hospital authority, or the

~~board, other than inactive-contributory members, who were active-contributory members but who are not regular full-time employees; [Active-Noncontributory. The employee whose current employment status does not allow contributions into the retirement system and is thereby deactivated. The employee has the privilege of immediate reentry, on appropriate change of status, to a creditable period of membership service, with contributions resumed at time of status change.]~~

(3) ~~the inactive-contributory members group, which consists of all members who are on an authorized leave of absence and who continue [Inactive-Contributory. The employee who is on a leave of absence, who is allowed] to make deposits into the retirement system during the employee's absence;[-]~~

(4) ~~the inactive-noncontributory members group, which consists of all members whose status as an employee with the city, a hospital authority, or the board has been terminated before retirement or disability retirement and who are still entitled to, or whose beneficiary may become entitled to, benefits from [Vested-Noncontributory. The terminated employee who, being fully vested, retains his or her contributions in] the retirement system; and[-]~~

(5) ~~the retired members group, which consists of all members who have retired and who are receiving or who are entitled to receive a retirement allowance [Retired. The employee who is receiving a retirement annuity].~~

(c) ~~An active-noncontributory member becomes an active-contributory member immediately on resuming employment as a regular full-time employee or on returning from an approved medical leave of absence, as applicable.~~

(d) It shall be the duty of the retirement board to determine the membership group to which each person [employee] who becomes a member of the retirement system properly belongs. It shall be the duty of the city manager to submit to the board a statement showing the name, position, compensation, duties, date of birth, length of employment [service], and other information regarding each [the] employee of the city the board may require. ~~The pension officer shall submit to the board a statement showing the name, position, compensation, duties, date of birth, length of employment, and other information regarding each employee of the board that the board requires. Each hospital authority board shall submit to the retirement board a statement showing the name, position, compensation, duties, date of birth, length of employment, and other information regarding each employee of the hospital authority that the retirement board requires.~~

(e) ~~Any person who has ceased to be a member and has received a distribution of the person's accumulated deposits may have the person's membership service or prior service reinstated if the person is reemployed as a regular full-time employee for a continuous period of 24 months and deposits into the system, within a reasonable period established by the board on a uniform and nondiscriminatory basis, the accumulated deposits withdrawn by that person, together with an interest payment equal to the amount withdrawn multiplied by an interest factor. The interest factor is equal to the annually compounded interest rate assumed to have been earned by the fund beginning with the month and year in which the person withdrew the person's accumulated deposits and ending with the month and year in which the deposit under this subsection is made. The interest rate assumed to have been earned by the fund for any period is equal to the interest rate credited for that period to the accumulated deposits of members, divided by 0.75.~~

~~[(e) A member ceases to be a member of the retirement system and loses membership service if, through death, dismissal, resignation, or from any other cause, the member severs the service connection as an employee and withdraws accumulated deposits as provided under the withdrawal allowance provisions; however, any eligible member who has not previously received credit for one-half of previously forfeited membership service is entitled to reinstatement of membership service if such eligible member deposits in the system the accumulated deposits withdrawn and an interest charge based on the amount withdrawn times an interest factor. The factor is based on the compounded net annual rates of interest (the net annual rates of interest credited to the member's accumulated contributions divided by 0.75) that were earned by the fund beginning with the month and year in which the member withdrew contributions and ending with the month and year payment is made to reinstate the service.]~~

~~(f) [An eligible member is an employee who has been reemployed by the city or the system and has completed at least 24 consecutive months of service as a member since being~~

reemployed by the city or the system and who deposits the lump sum described in Subsection (e) of this section with the system during any time period designated by the board with the approval of the system's actuary.

~~[(g) Any such member who has previously received credit for one half of previously forfeited membership service is entitled to reinstate the remaining one half of this previously withdrawn membership service and an interest charge as described hereunder.~~

~~[(h) An employee granted a leave of absence or withdrawing from the service for a stated period of time, not to exceed in any event a period of two years, who allows contributions in the retirement and pension system to remain in the fund is eligible for continued membership on reentering the service of the city or the system. During the period of absence, the employee shall not receive service credit.~~

~~[(i) Military leave of absence shall not be included in the two-year limit referred to in Subsection (h) of this section if such member returns to active service with the city or the system within 90 days after the expiration of such military leave of absence.] A member [of the system] on authorized [military] leave of absence may make deposits each biweekly pay period to the system while on authorized [military] leave of absence, in an amount that is equal to the amount of the member's [his or her] deposit for the last complete biweekly pay period that the member was paid by the city, a hospital authority, or the board. As long as the member on authorized leave of absence makes the biweekly payments, the [The] city shall [will] make contributions [a contribution] to the retirement fund for such member on authorized [military] leave of absence from the city each biweekly pay period in an amount equal to the contribution amount the city would have made if the member's biweekly pay had continued to be the biweekly pay the member received for the last complete biweekly pay period that the member was paid by the city. Each hospital authority shall make contributions to the retirement fund for a member on authorized leave of absence from that hospital authority each pay period in an amount equal to the contribution amount the hospital authority would have made if the member's pay had continued to be the pay the member received for the last complete pay period that the member was paid by the hospital authority. The board shall make a contribution to the retirement fund from system funds for a member on authorized leave of absence from the board each biweekly pay period in an amount equal to the contribution amount the board would have made if the member's biweekly pay had continued to be the biweekly pay the member received for the last complete biweekly pay period that the member was paid by the board. If the member does not make those deposits while on authorized [military] leave of absence, the member may make a single payment, within five years after the member has returned to employment with the city, with the hospital authority, or with the board [system] equal to the deposits the member would have made if the member had continued to be paid during the authorized [his military] leave of absence at the same rate of pay the member was receiving at the time the member's authorized [military] leave of absence began. The city shall [will] make a single payment for such member employed by the city equal to the contributions [deposits] it would have made on the member's behalf if the member had made deposits to the fund during the period of the member's authorized leave of absence. The board shall make a single payment to the fund for a member employed by the board equal to the contributions it would have made on the member's behalf if the member had made deposits to the fund during the period of the member's authorized leave of absence. As long as deposits are made in accordance with this subsection, the member will continue to earn membership service during the period of the authorized leave of absence.~~

~~[(j) Normal retirement for any member under this system shall be the earlier of completion of 30 years of creditable service at any age or attainment of age 62. However, should a member not retire on attainment of normal retirement, the member shall continue to make deposits to the system and shall accrue credit for membership service until the member elects to retire.~~

(4e) From time to time the board, subject to the approval of the system's actuary, may elect to permit the reinstatement of membership service forfeited in accordance with the terms of this section.

SECTION 5. Section 6, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. CREDITABLE SERVICE. (a) ~~The [Creditable service at retirement on which the] retirement allowance of a member is based on the amount of creditable [shall consist of all membership] service rendered by the member as of the member's actual retirement date [since the member last became a member plus any creditable service received from the buy-back provisions of Section 5 of this Act].~~

(b) The board shall determine by *nondiscriminatory* [appropriate] rules and regulations consistently applied, subject to the provisions of this Act, in case of absence, [or] illness, or other temporary interruption in service as a regular full-time employee [separation from service], the portion of each calendar year to be allowed as creditable [credited to such employee on future] service. No credit shall be allowed as creditable service for any period exceeding one month during which an employee was absent continuously without pay, except for an authorized [military] leave of absence. The board shall verify the records for creditable service claims filed by the members of the retirement system, subject to the provisions of this Act and in accordance with such administrative rules and regulations as the board may from time to time adopt.

(c) *At any time before a member's actual retirement date, a member may establish creditable service for military service performed that is creditable as provided under this subsection according to the following conditions, limitations, and restrictions:*

(1) *Military service creditable in the retirement system is active federal duty service in the armed forces of the United States, other than as a student at a service academy, as a member of the reserves, or any continuous active military service lasting less than 90 days. To be creditable, the military service must have been performed before the beginning of the member's most recent period of membership in the retirement system or its predecessor system.*

(2) *A member is not eligible to establish military service credit unless the member was released from active military duty under conditions other than dishonorable.*

(3) *A member may not establish more than 24 months of creditable service in the retirement system for military service under this subsection.*

(4) *A member may establish creditable service under this subsection by contributing to the retirement system a single payment equal to 25 percent of the estimated cost of the additional projected retirement benefits the member will be entitled to receive. The board will determine the required contribution based on a procedure recommended by the actuary and approved by the board.*

(5) *After the member makes the deposit required by this subsection, the retirement system shall grant the member one month of creditable service for each month of creditable military service established under this subsection.*

SECTION 6. Section 7, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. SERVICE RETIREMENT BENEFITS AND WITHDRAWAL BENEFITS. (a) *Except as provided by Subsection (b) of this section, a member who retires on or after the member's normal retirement date and applies in writing for a retirement allowance [On retirement from service, members entitled thereto] shall receive a life annuity (modified cash refund) beginning on the last day of the month after the month in which the member retired. Unless Subsection (e) of this section or Section 8 of this Act applies, a member whose employment by the city, a hospital authority, or the board terminates before the member's normal retirement date is entitled to a distribution of the member's accumulated deposits in a single lump sum. On receiving that distribution, a member is not entitled to any other benefit under this Act. If a member has at least five years of creditable service and does not withdraw the member's accumulated deposits, the member is entitled to a life annuity (modified cash refund) beginning on the first day of the month after the month in which the member's normal retirement date occurs. If a member has at least 20 years of creditable*

service and does not withdraw the member's accumulated deposits, the member is also entitled to elect an early retirement benefit on attaining age 55 [~~monthly retirement allowance consisting of current service annuity, prior service pension, or both~~].

(b) A member who *terminates employment with the city, a hospital authority, or the board and who has less than five years of creditable service is not entitled to a retirement allowance* [~~meets the requirements of retirement shall receive monthly a current service annuity payment~~].

(c) [~~A member who meets the requirements therefor shall receive monthly a prior service pension payment~~].

[(d)] The amount [~~prior service pension and the current service annuity, as hereinafter set out, shall be considered a life annuity (modified cash refund) with the first monthly payment due from the member's retirement date, but the amounts~~] of the retirement allowance [~~these~~] and all other benefits payable under this statute shall be subject at all times to such adjustments as may be required to ensure actuarial soundness as may be approved by the actuary and adopted by the board, except that annuities already granted may not be reduced below the base figure granted at time of retirement.

(d) [(e)](1) Subject to the conditions, limitations, and restrictions set forth in this subsection, as well as all other pertinent conditions, limitations, and restrictions set forth elsewhere in this Act, the board shall have the power *once each year* to authorize a [~~an annual~~] cost of living adjustment (hereinafter referred to as "adjustment") payment which, once authorized, [~~shall be paid out in 12 equal monthly installments which~~] shall be added to the current monthly payment of all retirement annuities, pensions, or allowances of each and every retired member [~~of the retirement and pensioning system who has retired~~] or the retired members' [~~surviving spouses or~~] beneficiaries who have become entitled to benefits, on or before December 31 of the year before the year in which the adjustment goes into effect [~~any preceding year~~]. Before December 31 [~~November 1~~] of each year, the board shall make a separate determination as to whether to authorize the payment of an [~~annual~~] adjustment and the amount of such adjustment, if any. *In determining whether to authorize an adjustment, the board may consider the changes in the consumer price index over the preceding 12-month period, the actuarial experience of the fund, the investment experience of the fund, the amount of any prior adjustments, and other factors that the board and the actuary consider appropriate.*

(2) In determining whether to authorize the payment and the amount of any [~~annual~~] adjustment, the board shall be governed by the following conditions, considerations, limitations, and restrictions:

(A) Any and all determinations to authorize the payment of any *adjustment* amount must be based on the ability of the fund to pay such an amount and shall not be based on the individual needs of any particular retired members[, ~~surviving spouses,~~] or beneficiaries.

(B) Prior to the board's authorizing the payment of an [~~annual~~] adjustment, the actuary must approve and recommend such an adjustment to the board and certify in writing to the board that, based on the sound application of actuarial assumptions and methods consistent with sound actuarial principles and standards, it is demonstrable that the fund has and will continue to have the ability to pay such an amount out of its realized income after all other obligations of the fund have been paid.

(C) The amount of the adjustment [~~payment~~] for each retired member[, ~~surviving spouse,~~] or beneficiary *may not exceed six* [~~shall be increased or decreased by the amount of the change in the price index over the previous year, or by four~~] percent of the *monthly payment due the retired member or beneficiary before the adjustment*. *For members who retired during the year in which the adjustment is authorized, the increase for the first year in which the adjustment is being paid shall be prorated in the ratio that the number of completed months after the member's retirement in the year of the member's retirement bears to 12. After the first year the member is entitled to the full amount of the adjustment without proration.* [~~retirement allowance as adjusted, whichever is the smaller, provided, however, that such increase shall be prorated for a member who retired during the year in the ratio that the number of completed months after the member's retirement in that year bears to 12. The actuary, in making a determination as to the amount of the adjustment payment, may use the base period in order to compute an average base period price index for~~]

~~the six-year base period by averaging or leveling the increases and decreases of the price index over the same six-year base period so long as it is demonstrated by the application of sound actuarial standards that such a use of averaging or leveling will not be detrimental to the continuity of the fund.]~~

(D) The board shall have the authority and the duty on recommendation by the actuary, at any and all times and without notice to anyone, to decrease the amount of [the] adjustment payment as much as is necessary to protect the continuity of the retirement and pensioning system and to protect the corpus of the system should the ability of the system to continue to pay the adjustment be threatened by a change in the economic situation of the United States, the State of Texas, the city, or the system itself, such as would dictate that a prudent trustee should authorize such a decrease, providing that, if the threatening change should prove not to have had the predicted harmful effect on the system, then the board shall have the authority, on recommendation by the actuary, to reinstate the payment of all or any portion of the amount of the previously decreased adjustment payments.

~~[(E) All monthly retirement annuities being paid by the system in which payments began prior to January 1, 1985, shall be increased effective March 1, 1985, with the first increased amounts being paid March 31, 1985, in accordance with the following schedule:~~

<u>[Year of Retirement]</u>	<u>Percentage Increase</u>
[1962 and earlier	250
[1963 through 1966	230
[1967 through 1970	160
[1971	105
[1972	100
[1973	65
[1974	55
[1975	50
[1976	45
[1977	40
[1978	35
[1979	25
[1980	15
[1981	8
[1982	7
[1983	6
[1984	5

~~[All members are entitled to the following one-time benefit increase as of January 1, 1990:~~

<u>[Date Benefit Commenced]</u>	<u>Percent Benefit Increase</u>
[1968 or earlier	15
[1969 through 1980	11
[1981 through September, 1985	8
[October, 1985, through August 1988	2
[September, 1988, through month prior to effective date of benefit increase	0.5]

(3) Any adjustment payments shall be in addition to the benefits to which a retired member[, surviving spouse,] or beneficiary is otherwise entitled under this Act, and in no event shall a reduction in the adjustment payments cause the retired member's[, surviving spouse's,] or beneficiary's benefits to be reduced below the actual base retirement figure calculated under the provisions of this Act.

(4) The following terms and definitions shall be used in construing the meaning of this section [subsection]:

(A) "Base retirement figure" means that [retirement] figure calculated under the provisions of this Act at the time of actual retirement to which, for the purposes of this subsection, a retired member is entitled over a 12-month period.

(B) "*Consumer price [Price] index*" means the [annual average over a calendar year of the] Consumer Price Index (all items—United States City average) published monthly by the Bureau of Labor Statistics, United States Department of Labor or its successor in function.

(C) [~~"Adjustment payment" means an annual cost of living adjustment payment which is paid in 12 equal monthly installments which are added to the current monthly payment figure of retirement annuities, pensions, or allowances of members, surviving spouses, or beneficiaries of the retirement and pensioning system who have become entitled to benefits under this Act.~~

[~~(D) "Averaging" or "leveling" means a means whereby the fluctuations in the price index over a stated period of time may be first averaged out for the entire period to determine the average amount over that period of time that may be paid out as an annual adjustment payment, provided that in no event shall such an averaging or leveling principle be used to justify an annual increase in the annual adjustment payment which is equal to more than four percent of the current retirement figure.~~

[~~(E) "Base period" means the six years immediately preceding the year for which the annual adjustment payment is computed.~~

[~~(F) "Fund" means, for the purposes of this subsection, a combination of Fund No. 1 and Fund No. 2, as defined in this Act unless otherwise indicated.~~

[~~(G) "Continuity of the fund" means the ability of the retirement and pensioning system's fund to continue to meet all of its purposes, to continue to thrive and grow along with the economy of the United States, the State of Texas, and the city, or to be able to sustain itself and its retired members[, surviving spouses,] and their beneficiaries during and throughout the periods of deflation or recession in those economies.~~

(e) [(~~g~~) Any member shall be eligible for early retirement if the member *attains* [attained] the age of 55 years and *completes* [completed] at least 20 years of creditable service [with the city]. Such member shall be entitled to a benefit equal to a *life* [the current service] annuity (*modified cash refund*) reduced at the rate of five-twelfths of one percent for each month the member was retired before the member's normal retirement date. A member who takes early retirement shall begin receiving the benefits provided by this subsection beginning on the last day of the month after the month in which the member retired [at which payments commence].

(f) [(~~g~~) Any member, irrespective of the number of years of creditable service, shall be eligible for normal retirement at age 62. After age 62 the member may continue in the employment of the city or the system and shall continue to make deposits to the system and accrue credit for membership service until he or she elects to retire. No member shall be paid any benefits by the system so long as the member is permanently employed by the city or the system.

(h) A member [attaining eligibility for retirement, except for disability retirement,] may file a duly acknowledged written designation which, if approved by the board, shall entitle the member, *on retirement*, to receive the actuarial equivalent of the life annuity in the form of one of the following options:

(1) Option I. 100 Percent Joint and Survivor Annuity. This option is a reduced *monthly* annuity payable to the member but with the provision that on the member's death the annuity shall be continued throughout the life of and be paid to such person as the member shall [irrevocably] designate before the member's *actual* retirement date.

(2) Option II. 50 Percent Joint and Survivor Annuity. This option is a reduced *monthly* annuity payable to the member but with the provision that on the member's death one-half of the annuity shall be continued throughout the life of and be paid to such person as the member shall [irrevocably] designate before the member's *actual* retirement date.

(3) Option III. 66-2/3 Percent Joint and Survivor Annuity. This option is a reduced *monthly* annuity payable to the member but with the provision that on the member's death two-thirds of the annuity shall be continued throughout the life of and be paid to such person as the member shall [irrevocably] designate before the member's *actual* retirement date.

(4) Option IV. Joint and 66-2/3 Percent Last Survivor Annuity. This option is a reduced *monthly* annuity payable to the member but with the provision that two-thirds of the annuity

to which the member would be entitled shall be continued throughout the life of and be paid to the survivor after the death of either the member or such person as the member shall [~~irrevocably~~] designate before the member's *actual* retirement date.

(5) Option V. Level Income Option. If payment of a retirement *allowance* [~~benefit~~] commences prior to the earliest age at which the member will become eligible for an old age insurance benefit under the Social Security Act, the member may elect that the amount of the *monthly* payments be adjusted so that an increased *monthly* amount will be paid prior to such age and a reduced *monthly* amount, if any, will be paid for life after such age. The purpose of this adjustment is to enable the member to receive from this plan and under the Social Security Act an aggregate income in approximately a level amount for life. [~~Such adjusted payments shall be the actuarial equivalent of the pension otherwise payable to such member.~~]

(6) Option VI. 66-2/3 Percent Joint and Survivor/Level Income Option. If payment of a retirement *allowance* [~~benefit~~] commences prior to the earliest age at which the member could become eligible for an old age insurance benefit under the Social Security Act, the member may elect that the amount of the *monthly* payments be adjusted so that an increased *monthly* amount will be paid prior to such age and a reduced *monthly* amount will be paid for life after such age. The purpose of this adjustment is to enable the member to receive from this plan and under the Social Security Act an aggregate income in approximately a level amount for life. *Option VI provides that if* [~~If~~] the member's death occurs after age 62, two-thirds of the monthly annuity the member was receiving at the time of the member's death shall be continued throughout the life of and be paid to such person as the member shall [~~irrevocably~~] designate before the member's *actual* retirement date. If the member's death occurs before age 62, two-thirds of the monthly annuity the member was receiving at the time of member's death shall be paid to such person as the member shall [~~irrevocably~~] designate before the member's *actual* retirement date through the end of the month when the member would have reached age 62. The monthly annuity being paid to such person as the member shall [~~irrevocably~~] designate before the member's *actual* retirement date will be reduced at the end of the month following the month in which the member would have reached age 62 to two-thirds of the reduced benefit the member would have begun to receive at age 62.

(7) Option VII. 15-Year Certain and Life Annuity. This option is a reduced annuity payable to the member for life. In the event of the member's death before 180 monthly payments have been made, the remainder of the 180 payments *shall be paid* [~~are payable~~] to the member's beneficiary or, if there is no beneficiary, to the member's estate.

(8) Option VIII. Equivalent Benefit Plan. *If a member requests in writing, any* [~~Any~~] other form of benefit or benefits may be paid either to the member or to such person or persons as the member shall designate *before the member's actual retirement date* [~~in writing~~], provided that the benefit plan *requested by the member* is certified by the actuary for the system to be the actuarial equivalent of the life annuity with guaranteed refund of the retired member's accumulated deposits. *If, on the death of the member and all other persons entitled to receive payments under an optional benefit, the member's accumulated deposits as of the member's actual retirement date exceed the sum of all payments made under that optional benefit, that excess shall be paid in one lump sum to the member's beneficiary.*

(g)(1) *For purposes of Subsection (f) of this section, designation of a beneficiary must be in writing. If a member has chosen Option I, II, III, IV, VI, or VIII, the member's designation of a beneficiary may not be revoked after a member retires, and any attempted revocation of a designation for those options is void. If the member is married, spousal consent is required for the member to select an optional benefit other than Option I, II, III, IV, or VI. At any time before retirement, a member may file with the board a written statement designating one or more persons to be entitled to receive as beneficiary the reduced annuity payable under one of the optional benefits. If a married member designates as a beneficiary any person other than the member's spouse, the member's spouse must consent in writing to the beneficiary designation, and the beneficiary designation may not be changed without spousal consent, unless the consent of the spouse expressly permits designations by the member without the requirement of further consent by the spouse. The spouse's consent is irrevocable and must acknowledge the effect of the designation and be witnessed by a board employee or notary public. Spousal consent is not required if it is*

established to the satisfaction of the board that the required consent cannot be obtained because there is no spouse, the spouse cannot be located, or other circumstances exist as prescribed by United States Treasury regulations. Notwithstanding other provisions of this subdivision, the option election or beneficiary designation made by a member and consented to by the member's spouse may be revoked by the member in writing without consent of the spouse at any time before retirement. The number of revocations is not limited. A former spouse's waiver or consent is not binding on a new spouse. An option selection becomes effective on the member's actual retirement date. The member retains the right to change the option selected or the beneficiary designated until the member's actual retirement date, subject to this subsection.

(2) After filing the written statement selecting one of the optional benefits, the member may continue in employment and retire any time after the member becomes eligible by filing a written application for retirement. If the member dies before retirement but after becoming eligible for retirement, the effective date of the member's retirement is the last day of the calendar month of death, and the benefit is computed on the optional benefit selected as if the member had retired on that date.

(h) [(4)] The amount of the annuity payment in Options I, II, III, IV, V, VI, VII, and VIII shall be determined without considering the minimum cumulative payment of the retired member's [employee's] accumulated deposits since that refund feature will stay in effect as indicated herein.

(i) If a member who is eligible for retirement dies without having filed a written selection of one of the enumerated options and if the member leaves a surviving spouse, that spouse may select the optional benefit in the same manner as if the member had made the selection or may select a lump-sum payment equal to the deceased member's accumulated deposits plus an equivalent amount from Fund No. 2. If the member does not leave a surviving spouse, the member's designated beneficiary is entitled to elect either Option VII, to become effective at the beginning of the calendar month after the month in which the death of the member occurs, or the sum of a lump-sum payment equal to the deceased member's accumulated deposits plus an equivalent amount from Fund No. 2. If the surviving spouse dies before the spouse receives retirement allowances equal to the amount of the member's accumulated deposits on the date of the member's death, the excess of the accumulated deposits over the retirement allowances paid shall be distributed in one lump sum to the member's estate.

(j) ~~[On separation from the service of the city by resignation or dismissal before retirement, the member shall receive the amount of the accumulated deposits standing to the member's credit in one lump sum. But, if a member has had at least five years of service with the city at the time the employee's service is terminated, the member shall have a vested right to elect to leave the member's accumulated deposits with the retirement system until such time as the member has applied in writing for benefit payments and has attained an age at which the member becomes entitled to receive monthly retirement benefit payments under this Act, at which time the member shall be entitled to a retirement allowance equal to that which the member would have received if the member had attained the age at the time of termination of the member's service which the member had attained at the time of making application.]~~

[(k)] In the event of death of a member who is ineligible for retirement, the member's accumulated deposits [standing to the member's credit in Fund No. 1] and an equivalent amount from Fund No. 2 shall be paid [payable] in a lump sum to the member's beneficiary [or, if there is no beneficiary, to the member's estate, unless the member shall have directed otherwise in writing, duly acknowledged and filed with the board].

(k)(1) If a prior demand for withdrawal of accumulated deposits has not been made within seven [(1) Seven] years after termination of employment with the city, a hospital authority, or the board [cessation of service] of a member with less than five years' of creditable service, the member's [if no previous demand has been made, any] accumulated deposits [standing to the member's credit] shall be returned to the member or the member's beneficiary. Except as provided by Subdivision (2) of this subsection, if [estate-If] the system is unable to locate the member or the member's beneficiary [estate], the member's accumulated deposits shall thereafter be forfeited and become a part of Fund No. 2.

(2) If the member or member's beneficiary later appears and requests in writing the payment of the member's accumulated deposits, the system shall:

(A) reinstate the account of the member;

(B) credit to that account an amount equal to all of the accumulated deposits previously standing to the member's credit plus interest that would have been earned on those accumulated deposits if the funds had remained in Fund No. 1 between the date of forfeiture to Fund No. 2 and the date of reinstatement of the member's account;

(C) fund the account from the monies in Fund No. 2; and

(D) make all necessary payments to the member or member's beneficiary from the reinstated account.

(3) On payment of the accumulated deposits under this subsection, plus any interest on those deposits to which the member may be entitled, to the member or member's beneficiary in accordance with this subsection, the terminated employee ceases to be a member of the system.

(l) [(m)] In the event of the death of a member receiving a retirement allowance, the sum of \$2,000 shall be payable in a lump sum to the member's beneficiary [or, if there is no beneficiary, to the member's estate, unless the member shall have directed otherwise in writing, duly acknowledged and filed with the board].

(m) [(n)(1)] Within one year prior to the date on which a member shall become eligible for retirement under any provisions of this Act, the member may file with the board a written statement selecting one of the optional benefits authorized by this Act, designating the person or beneficiary to be entitled to receive the reduced annuity payable under one of the optional benefits. If the member is married, spousal consent is required for the member to select an optional benefit other than Option I, II, III, IV, or VI. An option selection shall become effective at the member's date of eligibility to retire. The member shall retain the right to change the option selected until his retirement date.

(2) After filing the written statement selecting one of the optional benefits, the member may continue in service and thereafter retire any time after eligibility by filing a written application for retirement. If the member dies before retirement but after becoming eligible for retirement, the effective date of the member's retirement shall be the last day of the calendar month of death, and the benefit shall be calculated as if the member had retired as of that date on the optional benefit selected.

(o) In the event a member who is eligible for retirement dies without having filed a written selection of one of the above enumerated options and if the member leaves a lawfully married spouse surviving, then the surviving spouse of such member may select the optional benefit in the same manner as if the member had made the selection or may select a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2. If the member leaves no lawfully married spouse surviving, then the member's designated beneficiary or, if there is no beneficiary, the executor or administrator of the estate of the member is entitled to elect either Option VII, 15-Year Certain and Life Annuity, effective at the beginning of the calendar month succeeding that in which the death of the member occurs, or a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2. In the event of the death of the lawfully married surviving spouse before having received retirement allowances equal to the amount of the member's accumulated deposits at the date of the member's death, the excess of such accumulated deposits over the retirement allowances paid shall be refunded in one sum to the member's estate.

(p) When monthly survivor benefits are deemed payable as a result of the death of a member before retirement, an additional sum of \$2,000 shall be payable as a death benefit to the member's designated beneficiary [or, if there is no beneficiary, to the member's estate].

(n) [(q)] In the event of the death of the retired member under any retirement option and the death of the beneficiary [person irrevocably] designated by the retired member when either Option I, Option II, Option III, Option IV, or Option VI is in effect, before [monthly] retirement allowances have been received that are equal or greater than the retired member's accumulated deposits, then the member's estate will receive the excess of the retired member's accumulated deposits over the retirement allowances paid.

(o) Notwithstanding any contrary provision of this Act, the distribution of a member's benefits, including benefits payable after the member's death, made on or after January 1, 1985, shall be made in accordance with the following requirements and shall otherwise comply with 26 U.S.C. Section 401(a)(9) and its subsequent amendments and regulations, including Regulation Section 1.401(a)(9)-2:

(1) A member's benefits shall be distributed to the member, or the distribution of those benefits shall begin, not later than April 1 of the calendar year after the calendar year in which occurs the later of the date on which the member attains age 70-1/2 or the date on which the member's employment by the city, hospital authority, or the board terminates.

(2) A member's benefits shall be distributed over a period not exceeding the life of the member or the lives of the member and the member's beneficiary or over a period not exceeding the life expectancy of the member or the life expectancy of the member and the member's beneficiary.

(3) If the distribution of a member's benefit has begun and the member dies before the member's entire benefit is distributed, the remaining portion of that benefit shall be distributed at least as rapidly as under the form of benefit selected as of the date of the member's death, adjusted as necessary under this subsection.

(4) If a member dies before the distribution of the member's benefit has begun, the member's death benefit shall be distributed to the member's beneficiary within five years after the date of the member's death. This five-year rule does not apply to any portion of the deceased member's benefit that is payable to or for the benefit of the member's surviving spouse. A benefit payable to or for the benefit of the member's surviving spouse may be distributed over the life of the spouse or over a period not exceeding the life expectancy of the spouse, provided that payment of the benefit begins not later than the date on which the deceased member would have attained age 70-1/2. If the surviving spouse dies before distributions to that spouse begin, the five-year rule applies as if the spouse had been the member.

(5) The five-year rule does not apply to distributions payable to a beneficiary over the life or life expectancy of the beneficiary, provided that payment of the benefit begins not later than the first anniversary of the date of the member's death.

(6) In applying the requirements of this subsection, the life expectancy of the member and the member's beneficiary shall be redetermined annually in accordance with regulations under 26 U.S.C. Section 401(a)(9) and its subsequent amendments.

(p) The board may adjust the terms of payment under any form of benefit payment as long as the benefit as adjusted is the actuarial equivalent of the benefit before adjustment.

SECTION 7. Section 8, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. DISABILITY RETIREMENT. (a) Only active-contributory members, inactive-contributory members, and members on approved medical leave of absence [~~members who are permanent full-time employees or who are eligible to participate in the retirement fund or are contributing members or who work 30 hours or more per week~~] are eligible for consideration for disability retirement. Such members may apply for disability retirement at any date prior to their normal retirement date.

(b) If a member who is eligible for disability retirement and who has [with] less than 10 years of creditable service has become mentally or physically incapacitated for the performance of employment duties as a direct result of injuries sustained subsequent to the member's effective date of membership in the retirement system, the member may apply for disability retirement. Such application made by or on behalf of the injured member shall show that the injury sustained:

(1) was by external and violent means;

(2) came as a direct and proximate result of the performance of the member's [his or her] employment duties with the city, a hospital authority, or the board [system]; and

(3) is likely to be permanent.

(c) On recommendation of the physician or physicians appointed or selected by the board that an eligible [the] member's incapacity is likely to be permanent and after considering any

additional evidence which the board deems relevant, the retirement board shall [may] award the member a disability retirement allowance [benefits]. The decision of the board is final.

(d) If a member who is eligible for disability retirement and who has [with] more than 10 years of creditable service has become mentally or physically incapacitated for the performance of employment duties, the member may apply for disability retirement. The application made on behalf of the disabled member shall show that the incapacity is likely to be permanent. On recommendation of the physician or physicians appointed or selected by the board that the eligible member's incapacity is likely to be permanent and after considering any additional evidence which the board deems relevant, the retirement board shall [may] award such member a disability retirement allowance [benefits]. The decision of the board is final.

(e) On award of a disability retirement allowance [benefits], the member shall receive a disability retirement allowance, beginning on the last day of the month after the month in which the member became disabled, which shall be computed in the same manner that a retirement allowance would be computed at the member's normal retirement date, based on compensation and creditable service at the date of disability retirement, without reduction for early retirement. The disabled member may choose to receive a life annuity (modified cash refund) or a benefit as [The options allowed are life annuity or its actuarial equivalent payable in the form] described by Section 7(f) of this Act as Option I, Option II, Option III, Option IV, or Option VII.

(f) A member receiving a disability retirement allowance will be required to file an annual report with [to] the retirement board concerning continued proof of disability. The report shall include:

(1) a current statement of the member's physical or mental condition, signed by the member's attending physician; and

(2) a statement of all employment activities pursued in the preceding year.

(g) The board may verify all information submitted in this report. Each calendar year, a [A] disabled member shall file an annual report not later than the 60th day after [on] the anniversary date of the member's disability retirement[; the annual report shall be filed no later than 60 days following the due date].

(h) The pension officer will be responsible for a yearly report to the retirement board listing those disabled members who should be examined. The retirement board shall have the right to order an examination of any person on disability retirement once each year until the member reaches the age of 62 years. If the member refuses to submit to an examination by a physician or physicians appointed by the board or if the member refuses to submit an annual report in accordance with Subsection (g) of this section concerning continued proof of disability, the disability retirement allowance shall be discontinued until such refusal is withdrawn and the member has submitted to an examination or has submitted an annual report. Should such refusal continue for a period of one year, the disability retirement allowance may be revoked by the board. If a member's disability retirement allowance has been revoked, the board may reinstate the member's disability retirement allowance on the member's full performance of and compliance with all requirements of this section and the board's determination that the member's disability is continuing.

(i) If after investigation of the disabled member's activities or if the annual medical examination shows that the member is no longer physically or mentally incapacitated for the purposes of the performance of employment duties or that such member is engaged in or is able to engage in substantial gainful occupation, as defined by Social Security disability income guidelines, for which he or she is reasonably suited by education, training, or experience, the board may discontinue the disability retirement allowance. If the disability retirement allowance of a member who had less than 10 years of creditable service is discontinued under this subsection or Subsection (h) of this section and not reinstated, and the member is not reemployed by the city, a hospital authority, or the board, the member is entitled to any amount by which the sum of the member's accumulated deposits as of the date of disability retirement exceeds the sum of all disability retirement benefits paid to the member by the system. If the disability retirement allowance of a member who had 10 years or more of creditable service is discontinued under this subsection or Subsection (h) of this section and not reinstated, and the member is not reemployed by the city, a hospital

authority, or the board, the member may withdraw any amount by which the sum of the member's accumulated deposits as of the date of the disability retirement exceeds the sum of all disability retirement benefits paid to the member by the system. If the member does not withdraw the excess, the member is entitled to a life annuity (modified cash refund) beginning on the first day of the month after the month in which the member's normal retirement date occurs. ~~[If the member who received a disability allowance with less than 10 years creditable service has his or her allowance discontinued pursuant to this provision, any remaining balance of Fund No. 1 will be refunded to the member. If the member who received a disability allowance after 10 years creditable service has his or her allowance discontinued pursuant to this provision, his or her contributions shall remain in the system and he or she shall be considered a vested noncontributory member.]~~

(j) If a disabled member returns to active employment service with the city, a hospital authority, or the board ~~[system]~~, the disability retirement allowance shall cease. If the person is reemployed as a regular full-time employee, the ~~[Such]~~ person shall be reinstated as an active-contributory ~~[active]~~ member of the system and shall comply with all requirements of this Act. If reinstated as an active-contributory member, membership~~[Member-ship]~~ service credits accumulated prior to disability shall be restored to the full amount standing to the member's credit as of the date the board found the member ~~[him or her]~~ eligible for disability retirement, and any~~[Any]~~ prior service credit shall be restored in full. The member is not required to reimburse the fund for any disability retirement allowance amounts received by the member.

SECTION 8. Section 9, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. METHOD OF FINANCING. (a) *Each active-contributory member shall make deposits ~~[Deposits by the members]~~ to the retirement system ~~[shall be made]~~ at a rate equal to ~~[based on]~~ seven percent of the member's compensation, pay, or salary, ~~[basic hourly earnings of each member]~~ exclusive of overtime, incentive, or terminal pay, and disregarding compensation, pay, or salary in any month in excess of \$16,666. ~~[Deposits shall be made so long as a member remains employed by the city or the system.]~~ Deposits shall be made by payroll deduction. If a regular full-time employee works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the employee shall make deposits as though working a normal 40-hour work week even though the rate of contribution may exceed seven percent of the employee's actual compensation, pay, or salary, and the employee's average final compensation shall be computed on the basis of the compensation, pay, or salary for a normal 40-hour work week. No deposits may be made nor membership service credit received for periods during which an employee's authorized normal work week is less than 75 percent of a normal 40-hour work week. A person who is eligible for inactive-contributory membership status and who chooses to be an inactive-contributory member shall make deposits to the retirement system biweekly in an amount that is equal to the amount of the member's deposit for the last complete biweekly pay period that the member was employed by the city, a hospital authority, or the board. The members, by a majority vote in favor of an increase in contributions above seven percent, may ~~[shall]~~ increase each member's contributions above seven percent in whatever amount the pension board recommends. The city shall contribute amounts equal to seven percent of the compensation, pay, or salary ~~[basic hourly earnings]~~ of each active-contributory member and each inactive-contributory member employed by the city, exclusive of overtime, incentive, or terminal pay, and disregarding compensation, pay, or salary in any month in excess of \$16,666. If a regular full-time employee of the city works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the city shall make contributions for that employee as though that employee works a normal 40-hour work week even though the rate of contribution may exceed seven percent of that employee's actual compensation, pay, or salary. The city council may authorize the city to make additional contributions to the system in whatever amount the city council may determine. The board shall pay from the fund contributions in amounts equal to seven percent of the compensation, pay, or salary of each active-contributory member and each inactive-contributory member employed by the board, exclusive of overtime, incentive, or terminal pay, disregarding compensation, pay, or salary in any month in excess of \$16,666. If a regular full-time employee of the board works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the board shall make*

contributions for the employee as though the employee works a normal 40-hour work week even though the rate of contribution may exceed seven percent of the employee's actual compensation, pay, or salary. If the city council authorizes additional contributions to the system by the city for city employees, the board may increase the contributions for the board employees by the same percentage. Each hospital authority shall contribute amounts equal to seven percent of the compensation, pay, or salary of each active-contributory member and each inactive-contributory member employed by the hospital authority, exclusive of overtime, incentive, or terminal pay, disregarding compensation, pay, or salary in any month in excess of \$16,666. If a regular full-time employee of a hospital authority works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the hospital authority shall make contributions for that employee as though that employee works a normal 40-hour work week even though the rate of contribution may exceed seven percent of that employee's actual compensation, pay, or salary. If the city council authorizes additional contributions to the system by the city for city employees, each hospital authority may increase the contributions for the hospital authority employees by the same percentage. Contributions by the city, a hospital authority, and the board shall be made each pay period.

(b) In addition to the contributions by the city required by Subsection (a) of this section, the city shall contribute to the retirement fund each month two-thirds of such amounts [each month] as are [may be] required for the payment of prior service pensions [for service and disability retirement benefits] that are [may become] payable during that month, and [under the provisions of the retirement system, except that] one-third of each prior service pension payable that month [payment] shall be made from Fund No. 2.

(c) Contributions by the city shall be paid to the retirement system after appropriation by the city council.

(d) Expenses for [involved in] administration and operation of the retirement system that are approved by the board shall be paid by the board from funds of the retirement system [subject to approval of the board]. Such expenses shall include salaries of board employees and fees for actuarial services, legal counsel services, physician services, accountant services, annual audits, investment manager services, investment consultant services, preparation of annual reports, and staff assistance. [Other services and expenses may be authorized and paid for by the board as deemed necessary for the proper administration of the system.]

(e) The city shall pick up the city employee contributions to the fund. The board [system] shall pick up the board employee contributions [administrative staffs contribution] to the fund. Each hospital authority shall pick up hospital authority employee contributions to the fund. Member deposits [contributions] will be picked up by a reduction in their monetary compensation. Contributions picked up shall be treated as employer contributions in accordance with the Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)(2)) for the purpose of determining tax treatment of the amounts under the Internal Revenue Code of 1986. These contributions are not includable in the gross income of the employee until such time as they are distributed or made available to the employee. Employee deposits [contributions] picked up as provided by this subsection shall be credited [deposited] to the individual accumulated deposits account of each affected employee and shall be treated as compensation of employees for all other purposes of this statute and for the purpose of determining contributions to social security. The provisions of this subsection shall remain in effect as long as the plan covering employees of the city is a qualified retirement plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)), and its related trust is tax exempt under Section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)).

(f) Before the satisfaction of all liabilities incurred with respect to members and their beneficiaries under this Act, the corpus or income of the fund may not be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries.

SECTION 9. Section 10, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. INVESTMENTS OF THE BOARD. (a) The retirement board shall be the trustee of the funds of the retirement system and shall have full power in its sole discretion to invest and reinvest, alter, and change the form of investment of the funds. The retirement

board shall invest the funds in whatever instrument or investments the board considers prudent. In making investments for the funds, the retirement board shall discharge its duties:

- (1) for the exclusive purposes of:
 - (A) providing benefits to members and their beneficiaries; and
 - (B) defraying reasonable expenses of administering the funds;
 - (2) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
 - (3) by diversifying the investments of the funds to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
 - (4) in accordance with the laws, documents, and instruments governing the funds.
- (b) *A member of the board is not liable for any losses incurred in the investment of the fund in accordance with this section.*
- (c) No member of the board and no employee of the board, except as herein provided, shall have any interest, directly or indirectly, in the funds or receive any pay or emolument for his or her services. No member of the board or employee thereof shall, directly or indirectly, for himself or herself or as an agent, in any manner use the funds or deposits of the retirement system except to make such current and necessary payments as are authorized by the board, nor shall any member or employee of the board become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the board.

(d) *Subject to the exceptions provided by this subsection, ~~[(c) None of]~~ the funds or money mentioned in this Act are not assignable and are not~~[- None of the funds or money mentioned in this Act are]~~ subject to execution, levy, attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever. This subsection does not apply to a qualified domestic relations order. The board shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under those orders. To the extent necessary to authorize distributions pursuant to a qualified domestic relations order, a former spouse of a member will be treated as the spouse or surviving spouse of the member.*

(e) *Subject to the exceptions provided by this subsection, the ~~[(d) The]~~ right of a member to a pension, an annuity, a disability retirement allowance, or a retirement allowance, to the return of accumulated deposits ~~[contributions]~~, the pension, annuity, or retirement allowance itself, any optional benefit or death benefits, any other right accrued or accruing to any person under the provisions of this Act are unassignable and are not subject to execution, levy, attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever. This subsection does not apply to a qualified domestic relations order.*

(f) *If the board makes an election to have Subchapters A and C of Chapter 804, Government Code, and their subsequent amendments, apply to the system, the death of an alternate payee, as defined by Section 804.001, Government Code, and its subsequent amendments, or the death of a member's spouse terminates any interest of the alternate payee or spouse that would otherwise exist under this Act, except an interest accrued by that person as a member.*

SECTION 10. Section 11, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. MISCELLANEOUS. (a) A person who with intent to deceive makes any statement or report required under this Act which is untrue or falsifies or permits to be falsified any record or records of the retirement system shall forfeit any office or rights held by the person under the system, and such deception, falsification, or acquiescence in falsification is deemed a *Class B* misdemeanor.

(b) If any change or error in the records of the retirement system is discovered or results in any member, ~~[retired member]~~ surviving spouse, or beneficiary receiving from the retirement system more or less than the member, ~~[retired member]~~ surviving spouse, or beneficiary would have been entitled to receive had the records been correct, the retirement

board shall have the power to correct such error and as far as possible to adjust the payments in such a manner that the actuarial equivalent of the benefits to which the member, [~~retired member,~~] surviving spouse, or beneficiary was correctly entitled shall be paid.

(c) *On the full termination of the retirement and pensioning system, or on the complete discontinuance of contributions by the city, all hospital authorities, and the board under this Act, the retirement allowance of a member who is employed by the city, a hospital authority, or the board on the date of termination is determined by reference to the member's average final compensation and creditable service determined as of the date of termination of the system or the date of discontinuance of deposits as if the member had attained normal retirement age on that date. This subsection does not accelerate the date on which the payment of that benefit would otherwise begin.*

(d) *A member who is entitled to a benefit, including a benefit consisting solely of a distribution of the member's accumulated deposits, from the system may instruct the system to pay the single lump-sum actuarial equivalent of that benefit directly to:*

(1) *another trust forming part of a pension, profit-sharing, or stock bonus plan maintained by that member's new employer and represented by that employer in writing as meeting the requirements of 26 U.S.C. Section 401(a) and its subsequent amendments, subject to the acceptance by the trust to which those transfers are made of those transfers; or*

(2) *an eligible transferee plan in accordance with the federal Unemployment Compensation Amendments of 1992 (Pub. L. No. 102-318) and its subsequent amendments governing direct rollovers of eligible rollover distributions from qualified retirement plans.*

(e) *This Act does not grant a contract of employment between a member and the city, a hospital authority, or the board.*

SECTION 11. (a) Retirement allowances being paid by the retirement and pensioning system created by Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), to members of the retirement system, or to the beneficiaries of those members, who retired before December 1, 1989, are increased beginning with the payments due at the end of September in 1993.

(b) The amount of the increase for a member, or the beneficiary of the member, is by a percentage equal to:

(1) 2.2 percent divided by the retirement formula in effect on the date of the member's retirement;

(2) minus one; and

(3) multiplied by 100.

SECTION 12. (a) The changes in law made by this Act to Section 5(e), Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), as redesignated by this Act, permit a member who, before July 1, 1993, reinstated any portion of the member's membership service or prior service under a city ordinance that was in effect before July 1, 1993, to reinstate any membership service or prior service to which the member was not entitled to reinstate under that city ordinance.

(b) The changes in law made by this Act to Section 7, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), apply only to an option election or beneficiary designation made on or after the effective date of this Act. An option election or beneficiary designation made before the effective date of this Act is governed by the law in effect at the time the election or designation was made, and that law is continued in effect for this purpose only.

SECTION 13. This Act takes effect July 1, 1993.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on April 23, 1993: Yeas 131, Nays 0, two present not voting;
passed by the Senate on May 3, 1993: Yeas 31, Nays 0.

Ch. 180, § 14

73rd LEGISLATURE—REGULAR SESSION

Approved May 17, 1993.

Effective July 1, 1993.